

# **NORMS OF THE DIOCESE OF NASHVILLE**



*January 1, 2000*

## DECREE OF PROMULGATION

The Diocese of Nashville was established on July 28, 1837. For these past one hundred and sixty two years we have lived and proclaimed the Good News of Jesus Christ by worshiping God in prayer and sacraments, by teaching and preaching the Word of God, and by loving and serving our neighbors. Today we are a fast-growing, ethnically-diverse Catholic community within the thirty-eight counties of Middle Tennessee. We, the people of God of the Diocese of Nashville, stand at the threshold of the Jubilee of the Third Millennium with docility to the Holy Spirit, and we enthusiastically recommit ourselves to the teachings, the values, and the ministry of Jesus Christ.

For many years we have effectively identified and successfully addressed our most urgent needs according to the goals, the objectives, and action steps of our Diocesan Strategic Plan. That Plan, now newly-revised, provides us with definition and direction as we enter the new millennium.

Likewise, our endeavors are structured and governed by universal Catholic Church law as well as diocesan legislation. Most recently diocesan law was contained in governance documents entitled *Order and Values*, issued in 1983 and revised in 1992. That version of diocesan legislation has now been revised following extensive review by the Fourth Presbyteral Council. This revision, called *Norms of the Diocese of Nashville*, presents the current diocesan legislation in a simple format under seven headings: General Norms, The People of God, The Teaching Office of the Church, The Office of Sanctifying in the Church, The Temporal Goods of the Church, Sanctions in the Church, and Processes.

I wish to express my sentiments of deep gratitude to the members of the Fourth Presbyteral Council who generously offered their insights and time in a spirit of genuine collaboration.

May these norms serve our spiritual welfare well, and may we observe them with a sincere spirit and good will as we seek in the new millennium to fulfill our mission of living and proclaiming the Good News of Jesus Christ.

I promulgate these *Norms of the Diocese of Nashville* and declare that they will have the force of law effective January 1, 2000.

Given this twenty-eighth day of November, the First Sunday of Advent, in the Year of Our Lord Nineteen Hundred and Ninety-nine from the Chancery of the Diocese of Nashville.

Edward U. Kmiec  
Bishop of Nashville

ATTEST:

Deacon Hans M. Toecker  
Chancellor

# NORMS OF THE DIOCESE OF NASHVILLE

## I. General Norms

### Laws and Other Statements

1. This document is issued by the Bishop of Nashville in order to specify and supplement the common law of the Church. It abrogates all previous diocesan legislation, including all synodal legislation prior to 1968, *Pastoral Directives of the Diocese of Nashville* resulting from the Clergy conference of 1968, and *Order and Values* revised in 1992.
2. Amendments will be made in consultation with the Presbyteral Council. Questions concerning the interpretation of these norms should be referred to the Moderator of the Curia.
3. Acquired rights in the form of written agreements between the Bishop of Nashville and physical or juridic persons are not impaired by these norms.
4. The Diocese of Nashville is governed by canon law as well as by state and federal laws. Conflicts between persons in the church are resolved by the application of canon law. State and federal laws are applied to resolve conflicts involving persons or corporations outside the church. In all its affairs the diocesan church defers to both legal systems, seeking to reconcile them in its governance and administration, pursuant to norms below concerning corporation law (Norms 9-17), property law (Norms 107-133), and contract law (Norm 134).
5. These norms are acts of the Bishop that propose values to be pursued by the entire diocesan community, by a group of persons, or in a special ministry. They may be understood as specifications of faith seeking to fulfill the mission of the church through community action. They oblige those physical and juridic persons to whom they are directed. If the word “must” is used to describe the force of a norm, no discretion on the part of anyone can be permitted without dispensation from the Bishop. If the word “should” is used to describe the force of a norm, those to whom the norm is addressed may use some discretion in implementing the norm, but cooperation is expected to the fullest extent possible under the circumstances, and the Bishop or Moderator of the Curia should be consulted in cases of doubt. Dispensations from their provisions may be obtained from the Bishop.
6. The Bishop issues other statements that take the following forms:
  - Mission statements are specifications of the general mission of the church as it relates to the special circumstances of the diocese at a particular time.
  - Goals and objectives are further specifications of mission statements. They express values to be pursued indefinitely or within a specified period of time.
  - Statements which specify how these norms are to be implemented may variously be described as rules, regulations, directives, and guidelines. The force and authority of each statement should be evident from the language used.
  - Principles are statements that should inspire a particular ministry, authoritative relationship, pastoral action, or presentation of the church.

- Policies are statements that establish guidelines for the discretionary authority of administrators. They do not bind the administrator juridically, but create legitimate expectations that may be used in reviewing an administrator's effectiveness and performance.
7. With the permission of the Bishop, diocesan officers may issue statements that clarify these norms and determine an approach to be followed in implementing them.
  8. Copies of all current statements described above may be obtained from the Moderator of the Curia.

### **Juridic Persons**

9. Juridic persons are corporations in the law of the church. Parishes are juridic persons by virtue of the law itself. The Bishop can create other juridic persons to pursue the mission of the church. Some juridic persons are also incorporated in the law of the state; others are not. Unless otherwise indicated, incorporation in state law at the direction of the Bishop is to be understood as the constitution of a juridic person in church law. Bylaws of such corporations also serve as statutes for the juridic person.
10. The Diocese of Nashville, the superior juridic person administered through the Governance and Service Offices, is not incorporated in state law. When necessary, the diocese acts through Catholic Charities of Tennessee, Inc., which is not recognized as distinct from the diocese in church law.
11. Juridic persons may be aggregates of physical persons, as in state corporations, or aggregates of things, not permitted in state law. The Clergy Benefit Foundation, a fund for the clergy, is a separate juridic person (an aggregate of assets) with its own statutes, but it is not incorporated in state law.
12. All juridic persons incorporated in state law are membership corporations with the Bishop and his designees serving as the members of the corporation.
13. Juridic persons created by the Bishop are public juridic persons; they may act in the name of the church and own church property under the supervision of the Bishop. The Bishop may also recognize private juridic persons. Private juridic persons do not act in the name of the church and may not own church property. Applications for recognition as private juridic persons should be forwarded to the Moderator of the Curia with founding documents.
14. Subsidiary public juridic persons are subject to the authority of the Bishop. The relationship between the Bishop and non-subsidiary public juridic persons is governed by canon law. The Bishop appoints representatives to private juridic persons.
15. Statutes are ordinances that are established for juridic persons by the Bishop by which their purpose, constitution, governance, and administration are defined. Unless otherwise specified by the Bishop, the acts by which a juridic person is incorporated in state law are to be understood as the statutes of that juridic person in canon law. These statutes bind in both state law and canon law the administrators, boards, and other persons affiliated with the corporation.
16. What is provided in this document concerning the interpretation and binding force of diocesan norms is also applicable to the provisions of statutes.

17. These norms contain statutory provisions for parishes and the Governance and Service Offices of the diocese. Copies of the statutes of all other juridic persons of the diocese may be obtained from the Moderator of the Curia.

### **Agency and Juridic Acts**

18. Juridic persons require agents to act in their name and on their behalf. The Bishop acts in the name of the diocese (referred to in these norms as “Governance and Service Offices.”). The pastor or administrator acts on behalf of the parish. Boards, officers and administrators act on behalf of other juridic persons in accordance with their statutes. Others are strictly forbidden to represent a juridic person without written authorization from competent authority. Agents are limited to acts of ordinary administration as defined by the Bishop (see Norm 128) and to other norms of financial administration (Norms 126-142). The diocesan attorney should be consulted in case of doubt.
19. The *Code of Canon Law* or this document may provide that an administrator cannot act validly in the name of the juridic person without first *consulting* with named individuals or groups. The act of the administrator is invalid if he has not listened to these persons. Although he is held by no obligation to accede to their recommendation, even if unanimous, the administrator should not depart from their vote without some prevailing reason to be esteemed in his judgment. Those with whom consultation is required ought to be legitimately called together so that they may manifest their judgment; and if all are not called together, or if no occasion is given to them to express their opinion, the act of the administrator is invalid (Canon 127).
20. Canon law or this document may provide that an administrator cannot act validly in the name of the juridic person unless he first obtains the *consent* of named individuals or groups. If the administrator has not sought the consent of these persons, or if he has acted against their vote, he acts invalidly (Canon 127).

### **Rules of Order**

21. Rules of order are norms to be observed in assemblies of persons convoked by statute or church authority. Unless the Bishop provides for other rules in convoking an assembly, the following rules of order are to be observed by all diocesan and parish assemblies, councils, boards, commissions and committees. Insofar as permitted by state law, they are also to be observed by the governing boards of other juridic persons.
- The presiding officer shall call for directed discussion. This may proceed as follows: each member is invited to address the question; each may pass until others have spoken; no one may speak twice until all have been given the opportunity; after all have spoken, the presiding officer may attempt to formulate a consensus, with directed discussion continuing until the presiding officer has, in his or her judgment, expressed the consensus of the group and directs that the final formulation of the consensus be recorded as such in the minutes.
  - The presiding officer may permit free (non-directed) discussion until he or she is satisfied with the formulation of a consensus.
  - Any member has the right to propose that a particular meeting or portion of a meeting be conducted strictly in accordance with parliamentary procedure. Without permitting discussion of this proposal, the presiding officer will call for a vote and, with a majority consenting, use Robert’s Rules of Order.
  - If any member makes a formal motion at any time during the meeting with the stated intention of invoking parliamentary procedure, the consideration of that motion and any amendments to it shall be conducted in accordance with Robert’s Rules of Order.

## **The Power of Governance**

22. The Bishop is the Vicar of Christ in the diocese. He fulfills this role through the offices of teaching, sanctifying, and governing. He is the sole legislator, although he may be required to seek consultation or consent from the Presbyteral Council before he promulgates legislation in certain matters. He shares his executive authority by appointment to various offices of the curia. He exercises his judicial authority through the judicial vicar and other tribunal officers whom he appoints.
23. The Bishop permits the vicars general, vicars forane (deans) and certain delegates to exercise some of his rights and duties, a complete list of which can be obtained from the Moderator of the Curia, *The Rights and Duties of Vicars and Delegates*.
24. Requests for a dispensation from the provisions of common or diocesan law should be sent to the Moderator of the Curia with a statement of just and reasonable cause. Vicars and delegates who grant dispensations when necessary pursuant to their faculties should notify the Moderator of the Curia.

## **II. The People of God**

### **The Diocesan Curia**

25. The Bishop coordinates the administration of the entire diocese through regular meetings with members of the curia. The Moderator of the Curia, a priest whom he freely appoints, assists him in this task.
26. The Chief Financial Officer administers the assets of the diocese under the authority of the Bishop in accordance with policies established by the Bishop in consultation with the Diocesan Finance Board. Pursuant to Canons 1278 and 1276 §1, the Bishop has also delegated to this officer the authority to monitor the administration of all assets belonging to subsidiary juridic persons.
27. The Catholic Schools Office, consisting of the Superintendent of Schools and associates, represents the diocesan school system to state and federal authorities, certifies that institutions within the system are in compliance with state and federal regulations, reports non-compliance to the Bishop, issues guidelines for Catholic schools, and promotes the personnel development and program development of Catholic schools. The Bishop has issued *Laws, Guidelines and Policies for Schools*.
28. The Chancellor and his assistants preserve the official acts of the Governance and Service Offices in the diocesan archives and notarize official documents. Special provisions for maintaining clergy personnel files may be found in Norms 171-174.
29. The diocesan attorney is selected by the Bishop to represent the diocese in the state and federal legal systems, and is to be notified of all possible and pending legal actions. The Bishop may also appoint a general counsel to advise him and his staff on issues of canon and civil law.

30. The Bishop freely appoints representatives to other churches, civic or social groups, and Catholic organizations and associations not directly subject to the Bishop's governance authority. The representatives are not officers of governance but represent the concerns of the Bishop and are directly accountable to him.

### **Diocesan Services**

31. Ministry Formation Services trains parish ministers, and supports or provides diocesan ministries.
32. Catholic Charities of Tennessee, incorporated in state law, is not recognized as a separate juridic person of the diocese but as a civil name for the Diocese of Nashville. Its Board of Directors, in accordance with bylaws that reserve certain rights and duties to the membership of the corporation, is responsible for the development, approval, and evaluation of programs assigned to the agencies of Catholic Charities. The implementation of programs, staff accountability, and budget control are supervised by the Director of Catholic Charities, who must cooperate with the coordination of the Moderator of the Curia.
33. The Chief Financial Officer is also the director of services that support the governance and service offices and related programs. These support services involve plant management, purchasing and other disbursement systems, the secretarial support staff, and the proper reporting to all financial transactions.

### **Participation in Governance and Service**

34. Several institutes of common and diocesan law provide for the participation of representatives from parishes, institutions, and apostolates of the diocese in organizing and directing the church for its mission. Most of these groups have separate statutes or bylaws that describe the scope of their participation. The role of others is described in these norms.
35. The Presbyteral Council is the senate of the Bishop, representing the entire presbyterate, required by church law to assist the Bishop in the governance of the diocese. The Bishop consults with this Council before making decisions that affect the pastoral welfare of the entire diocese. Statutes approved by the Bishop govern this Council. Members of the Presbyteral Council are also appointed as the College of Consultors.
36. The Strategic Planning Commission is appointed by the Bishop from the clergy, religious and lay members of the diocese to assist him in developing statements of mission, goal and objective in order to direct the ministries and services of the diocese effectively.
37. The Bishop appoints a Finance Board pursuant to Canon 491 to assist him and the Chief Financial Officer in the financial administration of the Governance and Service Offices, and in monitoring the financial administration of diocesan subsidiaries. Statutes approved by the Bishop govern this board.
38. The Bishop may appoint experts to assist him in his role as the chief teacher and supervisor of educational ministries. He may request these advisors to develop policies and other statements of value for his approval and promulgation.
39. The Diocesan Liturgical Commission assists the Bishop in his sanctifying role pursuant to Book IV of the *Code of Canon Law* and liturgical norms.

## **Strategic Pastoral Planning**

40. The Strategic Planning Commission is maintained by the Bishop to promote the spiritual development of pastoral life in all its dimensions. It focuses on systematic methodologies and strategies to assure coherence and to enable a more effective channeling of ecclesial resources toward agreed goals.

## **Parishes**

41. A parish is a community of Christian persons constituted in a stable manner by the Bishop in consultation with the Presbyteral Council. This community is ordinarily determined by territorial criteria; however, other criteria may be used to create a personal parish (Canon 515). A number of parishes may be united in a cluster under the leadership of one pastor, wherein each parish retains its juridic autonomy.
42. The Bishop provides pastoral care for each parish by appointing a pastor (or administrator) for that community. He may also appoint an associate pastor for one parish, for several parishes, or for a specific ministry in one or more parishes (Canon 545). He may appoint a deacon or lay person to coordinate pastoral activity in those parishes without a resident pastor. The Bishop may appoint an administrator for the parish if the pastor is impeded from fulfilling his responsibilities.
43. Each parish must have a parish council to be constituted in accordance with the general provisions of these norms. Bylaws conforming to these norms may be developed by the parish council and approved by the pastor. Canon 536 provides that the pastor is the president of the council. The bylaws may provide for the delegation of this responsibility to a chairperson. All actions of the council are subject to the approval of the pastor, except a vote to appeal his decisions.
44. Each parish may have an education commission to promote all educational ministries by developing principles, goals, policies and programs within the limits of its authority. This commission may be a committee of the parish council or a separate group with its own bylaws, but the parish council may overrule its decisions. Bylaws of the parish council may provide specific rights and duties for the governance of a parish school by the education commission or one of its committees, or by a separate board. For convenience, the governing entity of the school is referred to in these norms as the school board.
45. The pastor has the following rights and duties in the administration of the school in consultation with the Superintendent of Schools: to supervise religious education and formation programs; to hire the principal or to contract with a religious institute for a principal, to supervise and evaluate the principal, and to terminate the employment of the principal. The pastor may also approve disbursements, manage funds, approve the annual budget in consultation with the finance board and parish council, and allocate plant facilities for school operations.
46. The principal of the school has the following rights and duties: to employ all teachers and other school employees in consultation with the pastor and in accordance with diocesan regulations; to supervise and evaluate all teachers and other school employees; to terminate the employment of school employees with the consent of the pastor; to formulate policies for consideration by the education commission; to propose teachers' salaries and other budget items for consideration by the education commission; to implement regulations and policies approved by diocesan and parish authorities; to keep proper records of all financial transactions and school affairs; to render a full accounting annually to the parish; and, at the discretion of the pastor, to make



disbursements from school funds, manage school operating funds, and maintain facilities allocated for use by the school.

47. The pastor is the immediate supervisor of the school principal, and the principal is accountable to him for the administration of assets, for the implementation of parish policies approved for the school, and for the implementation of his legitimate directives. The principal is accountable to the Superintendent of Schools for compliance with regulations issued by diocesan authorities, for cooperation with the Catholic Schools Office in its programs, for the implementation of diocesan school policies, and for fulfilling the responsibilities of the principal as given in the diocesan job description.
48. Each parish must have a finance board with a life of three years such that the original appointments to the board and subsequent appointments to fill vacancies would terminate simultaneously. The pastor must appoint at least three but not more than seven parishioners to this board. Members may be reappointed to provide continuity. A change of pastor has no effect on the life of the board or appointments to it. The finance board advises the pastor in the administration of parish assets. The pastor, preserving his right and duty to act in juridic affairs on behalf of the parish, may allow the finance board to manage the financial affairs of the parish.
49. The pastor may appoint a member of the finance board or another person skilled in financial administration to serve as the parish finance officer with rights and duties that do not involve agency on behalf of the parish in juridic affairs. This officer, an associate pastor, and a person appointed by the Bishop to coordinate pastoral activity pursuant to Norm 42 above, may be authorized by the pastor to make disbursements from regular checking accounts within the approved budget, manage operating funds, maintain operating plants, and supervise employees. However, the person responsible for parish accounting may not be authorized to make disbursements.
50. In order for an association to be considered a fully integrated component of the parish, it must be recognized as such by the parish council as a matter of its written record, and it must be subject to the ultimate fiscal control of the pastor. An itemized record of receipts and expenditures must be filed in the parish office annually or made available upon request of the pastor.
51. The pastor, finance board and financial officer must follow the diocesan norms for financial administration (Norms 126-142), prepare a budget annually for approval by the parish council, and make an annual report to the parish on all parish funds.
52. In the process of determining an appropriate subsidy for educating the students of other parishes, those parishes owning and operating schools should apply the *Policy Concerning Inclusion of Capital Expenses into Subsidies of Parishes Sending Student Parishioners to Catholic Schools*, which may be obtained from the Moderator of the Curia or the Superintendent of Schools.

### **III. The Teaching Office of the Church**

#### **Catholic Schools**

53. The *Code of Canon Law* imposes on bishops and pastors the duty to provide Catholic education for the faithful. Every reasonable effort should be made to maintain the Catholic School System, as it presently exists in this diocese. Therefore, no parish is permitted to close a school without permission of the Bishop, and such permission will be granted only if it is clear from all available

evidence that the parish is incapable of subsidizing the school operations and other resources are not available. Likewise, no parish or independent group of the faithful is permitted to open a school without the Bishop's permission that is granted only on a showing of ability to finance the program.

54. Canon law requires that all Catholic schools in a diocese be subject to the supervisory and regulatory authority of the Bishop and his delegates. The subsidiary autonomy enjoyed by parishes and other juridic persons must not prejudice this centralized diocesan authority over the Catholic School System. These norms, the directives of the Bishop, and the legitimate acts of the Superintendent of Schools are binding on all parish and school officers.
55. The *Catechetical Directory* issued by the National Conference of Catholic Bishops is binding on all parish and diocesan schools. The *Catechism of the Catholic Church* should inform all religious education.
56. The Bishop alone has the right to issue rules, regulations and policies for Catholic Schools. Such documents have been approved and are binding on all parish and diocesan schools. The Superintendent has primary responsibility for monitoring compliance with these norms, and he may also issue guidelines to interpret them and promote their implementation. The purpose of these documents is to promote the quality of education in accordance with the requirement of Canon 806.
57. Rules, regulations and policies for the governance of Catholic Schools may be developed by the Superintendent of Schools in consultation with experts appointed by the Bishop. These are referred to the Bishop for approval.
58. Canon law reserves to the Bishop the right to name or approve teachers of religion and likewise to remove or demand that they be removed if it is required for reasons of religion or morals. The values promoted by this canon are generally fulfilled through the diocesan program of certification for teachers of religion.
59. The governance of diocesan high schools must accord with *Statutes for Diocesan High Schools*.
60. The pastor and principal of a parish school exercise rights and duties in accordance with Norms 45-47 above.
61. The school board (see Norm 44) may be given the following rights and duties in the bylaws of the parish council:
  - To approve policies for the school in conformity with diocesan laws, regulations, and policies, sending a copy of approved policies to the pastor and the Superintendent of Schools.
  - To propose an annual budget to be integrated in the total budget of the parish.
  - To suggest to the parish council provisions of the school board's organization and procedures to be incorporated in the bylaws or acts of the parish council.
62. The parish council has the following rights and duties in the operations of the school:
  - To determine the organization and procedures of the education commission and/or the school board to be incorporated into the bylaws of the parish council.
  - To be consulted together with the finance board in the decision concerning the subsidy to be made by the parish for school operations.

63. Non-compliance with these norms or other issues may occasion complaints at the local level. These complaints may be directed to the Superintendent of Schools who will study the issue and attempt to reconcile the parties or render a written opinion expressing his judgment. If these attempts at conciliation fail, or if the parties refuse to accept the judgment of the Superintendent, the Superintendent may recommend to the Bishop an intervention, or refer the parties to the Tribunal for mediation pursuant to Norms 160-165.
64. The Superintendent of Schools exercises the following rights and duties in the governance of schools:
- To represent the authority of the Bishop as given in these norms.
  - To represent the Catholic School System of the diocese to state and federal authorities, and certify that institutions within the system are in compliance with state and federal regulations.
  - To issue guidelines for the implementation of rules and regulations, and for the development of curriculum and for the general improvement of the system.
  - To monitor compliance with diocesan norms and, when necessary, to issue in writing mandates requiring compliance with a copy sent to the Bishop.
  - To interpret programs and policies of the of the school system to personnel, to parents, and to interested parties.
  - To develop and publish guidelines for school calendars, and to approve the calendar for each school.

## **IV. The Office of Sanctifying in the Church**

### **Baptism**

65. Care must be taken to delineate clearly the distinct status of those who are Catechumens and those who are already baptized but await reception into full communion in the Catholic Church. Conditional Baptism should be administered only when reasonable and serious doubt exists as to the fact or validity of a prior Baptism, and need not be part of the reception ceremonies but may be celebrated privately and prior to the reception into full communion. If the non-Catholic party was baptized as an infant, a certificate of Baptism must be obtained from the church of Baptism, or a statement must be obtained from a witness to the Baptism. If the non-Catholic party was baptized after the age of seven, a sworn statement from the party suffices. The validity of a documented Baptism should not ordinarily be questioned unless conferred in the Church of Jesus Christ of the Latter Day Saints, the Pentecostal and Holiness Churches, and the Jehovah's Witnesses, in which cases the mode and formula of Baptism should be investigated before a judgment concerning its invalidity is made.

### **Confirmation**

66. Confirmation is to be received in the eighth grade or when the candidate is 13 years old, unless health or residence would suggest otherwise. If a young person is unwilling at this age to make a full commitment to Jesus Christ and to accept the fullness of membership in the Catholic Church, he or she should be given the option of receiving Confirmation at a later time, perhaps as an adult.
67. The church recognizes the validity of Orders and Sacraments in the Orthodox Churches and in the Polish National Church. For this reason the Orthodox Christian who has been confirmed in his own church and now desires to be received into communion with the Roman Catholic Church, should not again be admitted to Confirmation. The Church does not recognize the validity of

Confirmation ceremonies administered by any of the Reformation Churches. All such ceremonies are administered again without condition.

### **Penance**

68. Parish priests should set aside a fixed time at least once a week when parishioners know that the Sacrament of Penance is available. Confessions must not be heard during the celebration of the Eucharist.
69. For the celebration of individual confessions there should be a small chapel or room in which penitents might choose to confess their sins and seek sacramental reconciliation either in anonymity or through a personal exchange, with the opportunity for appropriate spiritual counsel. Likewise, since the Rite calls for the extension of hands during absolution, such a room or chapel provides for the use of this gesture. Mutual prayer and reading from the Scriptures during the Rite requires a warm and open setting in which both the penitent and the confessor may be at ease. Continuing catechesis in this area is important, for if the full meaning of the Sacrament is to be manifest, adequate explanation is required.
70. The only circumstance in which a priest of the diocese may administer the Sacrament of Penance to those who are not visible members of the Roman Catholic Church is in danger of death, except for Eastern Orthodox Christians and the Polish National Catholic Church (Canon 844).
71. Individual, integral confession and absolution remain the only ordinary way for the faithful to reconcile themselves with God and the Church, unless physical or moral impossibility excuses from this kind of confession. The introduction of the occasional possibility of general absolution must not lead to the misunderstanding that general absolution is an ordinary alternative to individual confession. It would be an abuse of the ministry of reconciliation for priests, in the light of the possible opportunity for general absolution, to diminish their availability to individual penitents.
72. Under no circumstances may the celebration of Penance be scheduled with the intent of giving general absolution. Nor are there any generic cases of instances where general absolution is approved as a matter of diocesan practice.
73. The grave need that justifies the celebration of reconciliation with only general confessional and general absolution involves two closely related considerations. It is necessary that both of the following conditions be satisfied: (1) sufficient confessors are not available to hear individual confessions within a suitable period of time, so that, as a result, (2) penitents would be obliged to go without sacramental grace or Holy Communion for a long time. The single fact that a large number of penitents is present is insufficient by itself to justify general absolution. It is only when the large numbers are coupled with an insufficiency of available confessors that, by way of exception, general absolution is permitted. It is for the minister of the Sacrament, and especially the pastor, to determine whether a serious need exists in a specific instance that fulfills the conditions provided in these norms. If time permits, recourse should be made to the Bishop. If this is not possible, the priest must inform the Bishop as soon as possible of the fact that he has granted general absolution with a justification based on these directives.

### **The Eucharist**

74. The celebration of the New Order of Mass in the vernacular or in Latin is mandatory upon all priests in this diocese. Permission to celebrate the Eucharist in Latin on Sundays and Holy Days

must be obtained from the Bishop in each instance. This permission will be granted only upon assurance that the congregation is adequately prepared to participate intelligently.

75. Each pastor must provide an adequate schedule of Masses for the benefit of his people, and clearly publish this schedule for their information. The number of Masses should be adequate for the respective congregation, but not too numerous as to diminish unnecessarily the size of the congregation at each celebration.
76. With the assent of the pastor or proper authority, the celebration of Mass in homes is permitted in this diocese.
77. Small group celebrations and Masses for special gatherings, such as youth rallies, are permitted and even encouraged, so long as they are not celebrated to the disadvantage of a scheduled Mass. The respective pastor or proper authority should have knowledge of such celebration.
78. Sunday Masses may be celebrated after 4:00 P.M. on Saturday; Holy Day Masses may be celebrated after 4:00 P.M. on the previous day. A Nuptial Mass celebrated on Saturday afternoon after 4:00 P.M. also satisfies the Sunday obligation.
79. The Easter Vigil Mass should be celebrated after sundown. However, if pastoral reasons so dictate, it may be celebrated earlier, but not before 6:00 PM.
80. Communion under both forms is permitted on all occasions.
81. The priest and the deacon are the ordinary ministers of the Eucharist. All others are designated as extraordinary ministers. Pastors are authorized to delegate worthy persons in the Church to act as extraordinary ministers, provided adequate prior instruction has been given, and the people have been accorded preparation for this practice. Suitable dress, characterized by simplicity and Christian modesty and chosen so as not to distract attention from the central event of the Eucharist, is required.
82. Holy Communion is ordinarily received in the hand. The traditional manner of reception is an equal option; each communicant exercises a personal choice. Pastors and other catechists should see that adequate instruction is given on the optional ways the Eucharist may be administered and received.
83. Members of churches not in full communion with the Catholic Church may not be invited to receive the Eucharist, but should someone in good conscience (that is, not realizing that he or she is ineligible) approach, the person should be given Holy Communion rather than be publicly embarrassed.
84. To insure the proper dissemination of urgent information and, if needed, the implementation of Sunday celebrations in the absence of a priest, the provisions of the Parish Emergency Communication and Response Plan will be used in all cases of emergency resulting in a priest being unavailable for Sunday Mass. The Dean of each deanery is responsible for maintaining a detailed plan for each parish and mission.
85. In situations when it is decided by responsible parties that it will be necessary to hold a public service of prayer in the absence of a priest, the ritual contained in *Sunday Celebrations in the Absence of a Priest* must be used. A letter from the Bishop prepared for this purpose should be read on these occasions.

86. A funeral liturgy may be celebrated at the discretion of the pastor in the presence of cremated remains.

### **Marriage**

87. Couples are to be encouraged to begin formal marriage preparation with their parish priest or deacon as soon as possible after the engagement, ideally a full year but not less than four months before the anticipated wedding date. No firm date for the wedding should be set until the conclusion of the couple's meeting with the priest or deacon. Exceptions to this norm may be granted by the pastor, but only when serious circumstances and the spiritual welfare of the couple demand it.
88. Weddings are to take place in churches. The Bishops' permission may be sought to hold weddings in other suitable places for extraordinary reasons or because the marriage involves an unbaptized person.
89. All priests and deacons should cooperate with deanery programs for marriage preparation when such programs are available. Otherwise, the priest or deacon who agrees to assist at the wedding must accept full responsibility for the marriage preparation.
90. The priest or deacon who assumes responsibility for marriage preparation and celebration of the Sacrament is responsible for the pre-nuptial investigation form which is to be signed by the couple and the priest or deacon and filed in the parish archives. It is the responsibility of the same priest or deacon to make certain that nothing stands in the way of the valid and lawful celebration of the marriage, and he must testify to this investigation on the diocesan form provided.
91. The marriages of Catholic parties are ordinarily published in the parish where the marriage is to be celebrated, but this is not required. Ecumenical or mixed marriages may be announced in the parish of the Catholic party if the couple desires this.
92. Except in a case of necessity, and with due regard for state law, no one is to assist without the permission of an appropriate Ordinary (a) at marriages forbidden or not acknowledged by civil law (e.g. undocumented aliens; those who do not wish their marriage to be recorded by the State), (b) the marriage of a minor (under 18) when the parents are unaware or reasonably unwilling, (c) marriage by proxy, and (d) the marriage of someone who has been excommunicated or interdicted. This permission is ordinarily obtained by submitting a request to the Moderator of the Curia; however, it may be obtained from any Ordinary if necessary.
93. By virtue of a special delegation from the diocesan bishop, any priest or deacon in the diocese may grant permission for an ecumenical or mixed marriage provided the conditions of Canon 1125 and Norm 102 are fulfilled. A record of this permission, using forms provided by the Moderator of the Curia, is to be included with the marriage papers.
94. Persons under eighteen are to be strongly dissuaded from entering marriage and may not lawfully do so without the consent of their parents. If the parents withhold consent, permission for the marriage is not given without clear evidence of maturity. Adults under twenty-one should be dissuaded from marriage unless they also show clear evidence of maturity.

95. When the priest or deacon has serious doubts concerning the sufficient maturity of at least one party, he is urged to assist the couple in judging their preparedness for marriage by using one of the many marriage expectation inventories that are designed for this purpose. For a just cause, he may recommend to the Bishop that the marriage be delayed. Just causes would include the following: non-practice of the faith by the Catholic party or parties with no intention of returning to the practice of the faith, refusal to participate in the marriage preparation program, lack of readiness for marriage as assessed by the priest after consultation with parents and through pre-marriage counseling. Priests and deacons may refer couples to another priest or deacon or to an expert for an advisory opinion concerning maturity.
96. If the decision is made to delay the marriage, the couple must be informed of the specific reasons. It is a serious responsibility of the priest or deacon to help the couple overcome the circumstances that made the delay advisable through continued meetings, referral to a professional counselor, or referral to a preparation program.
97. When everything is prepared for the marriage and it cannot be deferred until an Ordinary can be consulted, the priest preparing the couple for marriage may dispense them from all impediments of ecclesiastical law except for those whose dispensation is reserved to the Apostolic See by Canon 1078. Any priest exercising this special faculty must forward to the Moderator of the Curia a copy of the dispensation with the notation of the date on which it was granted and an explanation of the circumstances which justified the dispensation. A dispensation from disparity of cult may not be granted unless the party fulfills the requirements of Canon 1125 and Norm 102.
98. All priests and deacons with assignments in the Diocese of Nashville enjoy general delegation for all marriages within the territory of the diocese, and they may grant special delegation to other priests in good standing for specific marriages in their parish. Before a special delegation is granted, the priest or deacon must conduct the pre-marital investigation and personally testify to the freedom of the couple to marry.
99. Those who assist at marriages outside of their own territory by virtue of the general delegation given in Norm 98 above act unlawfully unless they first obtain the permission of the pastor within whose parish the marriage is to be celebrated and also, if applicable, the permission of the pastor of Catholic parties. These permissions may also be granted by competent Ordinaries of the diocese for a just cause.
100. Petitions for dispensation from canonical form should ordinarily be sent to the Moderator of the Curia, although other Ordinaries of the diocese are competent to grant the dispensation in accordance with the requirements of law. The priest or deacon of the proper parish of the Catholic party who testifies concerning the freedom to marry should submit the petition. If another priest or deacon fulfills these responsibilities, he is to make certain that the dispensation is filed in the archives of the proper parish of the Catholic party, and the proper pastor must notify the parishes of Baptism.
101. In preparing a couple for a mixed or ecumenical marriage, the fact of the Baptism of the non-Catholic party must be documented and filed with the marriage papers. If the non-Catholic party was baptized as an infant, a certificate of Baptism must be obtained from the church of Baptism, or a statement must be obtained from a witness to the Baptism. If the non-Catholic party was baptized after the age of seven, a sworn statement from the party as part of the pre-nuptial investigations suffices. Priests and deacons must make every reasonable effort to document the Baptism of the non-Catholic party, and should not petition for a dispensation from disparity of

cult unless grave doubt exists concerning the fact of Baptism. The validity of a documented Baptism should not ordinarily be questioned unless conferred in the Church of Jesus Christ of the Latter Day Saints, the Pentecostal and Holiness Churches, and the Jehovah's Witnesses, in which cases the mode and formula of Baptism should be investigated before a judgment concerning its invalidity is made.

102. Permission for a mixed marriage and a dispensation from disparity of cult may be granted only if the conditions of Canon 1125 and this Norm are fulfilled.
  - A Catholic seeking permission to marry a non-Catholic shall make a declaration and promise in these or equivalent words: "I reaffirm my faith in Jesus Christ, and with God's help, intend to continue living that faith in the Catholic Church. I promise to do all in my power to share the faith I have received with our children by having them baptized and reared as Catholics."
  - A declaration and promise are to be made in the presence of a priest or deacon either orally or in writing, as the Catholic prefers.
  - If the Catholic is marrying a baptized person, the priest should draw the attention of the Catholic to the fact that the non-Catholic party shares spiritual benefits through his/her certain, if not full, communion with the Catholic Church through belief in Christ and Baptism.
  - Opportunely before the marriage, the non-Catholic is to be informed of the promises and the responsibilities of the Catholic. No precise manner for this is prescribed, and the priest, a deacon, or the Catholic party may do it. No formal statement of the non-Catholic is required. But the mutual understanding of this matter beforehand is important to prevent possible disharmony later.
  - The priest granting this permission shall certify that the non-Catholic has been duly informed using the following or similar words: "The required promise and declaration has been made by the Catholic in my presence. The non-Catholic has been informed of this requirement so that it is certain that he/she is aware of the promise and obligation on the part of the Catholic."
103. The priest or deacon assisting at a marriage may permit a non-Catholic minister to participate in the Catholic service by additional prayers, blessings or words of greeting and exhortation, provided the minister's church allows this.
104. If a dispensation has been given from canonical form, a priest or deacon may participate in the non-Catholic ceremony in the same way and under the same conditions as a non-Catholic minister at a Catholic ceremony.
105. Married couples should be given the opportunity to renew their marriage vows in the setting of the liturgy, especially on the date of the anniversary of their wedding. Witness to the lifetime commitment of marriage constitutes a profound demonstration of many of the noblest values of Christian life. When this renewal of vows takes place during the Eucharist, it should follow the homily in the Liturgy of the Word.
106. With respect to cases involving conjugal separation, each pastor in the diocese is delegated with the authority of an Ordinary in the rights and duties mentioned in Canons 1152 and 1153.
107. Special caution is to be taken that a suitable length of time (ordinarily one year) elapses between an attempted marriage and a convalidation. Prudence and discretion are to be used in each case. In special cases, the matter is to be referred to the Ordinary.



108. Requests for a radical sanation (retroactive validation) of an invalid marriage should be sent to the Moderator of the Curia accompanied by a copy of the civil marriage certificate and the Baptismal certificate of the Catholic party. The request should take the form of a letter which contains the following points of information:
- In the case of a mixed marriage, the necessary promises have been made, or there is at least implicit assurance that all children born of the marriage will be reared as Catholics.
  - At the time of the attempted marriage both parties were free to marry.

## V. The Temporal Goods of the Church

### Acquisition and Ownership of Church Assets

109. Each juridic person is capable of acquiring assets. Ownership of assets in church law belongs to the juridic person that acquired it. A parish owns the real property it acquires even though title in state law may be held in the name of the bishop and his successors in office.
110. The acquisition of assets is always subordinate to the mission of the church and the church's own laws. Since the early centuries, goods have been acquired for four specific reasons: celebration of the sacraments, the support of ministers, aid to the poor, and the works of the apostolate. Goods are acquired through contribution, bequest, assessment, and investment. These norms recognize and govern the following assets:
- *Free capital* (or current funds) is cash on hand for operating purposes (undesignated funds), or money set aside for future needs (designated funds).
  - *Restricted funds* are assets available to meet current expenses but only in compliance with restrictions specified by contributors or grantors. The income from a restricted fund may be designated by the administrator or undesignated.
  - *Restricted trusts* are assets donated by gift or bequest either (a) to the bishop/diocese for a restricted purpose for which the income also is to be restricted; or (b) to the bishop/diocese for the benefit of a subsidiary juridic person. In the case of (b) the income is always similarly restricted by diocesan policy if not by the will of the donor.
  - *Endowment funds* are assets donated by gift or bequest with the stipulation that the principal be invested and maintained intact and in perpetuity, with only the income available for expenditure. The income may be restricted (by the donor), or unrestricted.
  - *Term endowment funds* are assets donated with the provision that the principal may be released from its inviolability and expended (all or in part) upon the happening of a particular event or the passage of a stated period of time. The income may be restricted or unrestricted. When these funds are released, they become free capital unless another provision is made by the beneficiary.
  - *Stable capital* is constituted by assets which have been stabilized by an explicit act of the Bishop in one of three ways: (1) by permanent investment in real property to be used for church purposes (not for temporary investment); (2) by addition to unexpended plant funds and thus made available for construction, replacement, renewal or acquisition of land, buildings, and equipment to be used for church purposes or for the repayment of debt incurred for the same purposes; (3) by creation of or addition to quasi-endowment funds so that only the income is available for expenditure; the income may be designated by the Bishop, or remain undesignated. Capital remains stabilized if it is transferred from one type to another.

111. The concept of *trust* as it has developed in English law is unknown in Roman and canon law. Trust involves two objects and two subjects of ownership with respect to the same property. The trustee owns the legal estate for the purpose of managing the property, and the beneficiary owns the equitable estate for the purpose of benefitting from the property. Since canon law does not permit physical persons to own church property, the Bishop must be understood as the trustee owner of any real property held in his name; the equitable estate is owned by the juridic person for which the Bishop holds the legal estate.
112. Before acquiring real property, parishes and other subsidiaries must consult with the Moderator of the Curia or the Chief Financial Officer for the proper policies and procedures. Deeds are to be recorded pursuant to instructions from these officers. All original documents must be filed with the Chancellor.
113. Priests, deacons, parish officers, and corporate officers may not hold assets in their own name or purchase in their own name any property that rightly belongs to the church. Bank deposits of church funds must be made in the name of the institution from which these funds originated.
114. Restricted funds, restricted trusts, and endowment funds created by gift or bequest to the bishop/diocese for some restricted diocesan purpose are owned exclusively by the governance and Service Offices of the Diocese of Nashville, although the Bishop and diocesan finance board accept the consequent fiduciary responsibilities.
115. Restricted trusts and endowment funds created by gift or bequest to the bishop/diocese for the benefit of a subsidiary juridic person are owned in church law exclusively by the Governance and Service Offices. By diocesan policy and state law, however, the Bishop and finance board are trustees of the legal estate, and the subsidiary juridic person owns the equitable estate.
116. Restricted funds, restricted trusts, and endowment funds created by gift or bequest to a subsidiary juridic person are owned in church law exclusively by the juridic person to which the funds were given. By diocesan law, however, all such funds must be placed on deposit with the Governance and Service Offices in the Deposit and Loan fund for which the Bishop and finance board act as trustees.
117. The Governance and Service Offices also holds in trust funds collected for national or international projects and eventually forwarded to the responsible agency.
118. The Bishop has the right to assess subsidiary juridic persons proportionate to their income for diocesan needs (Canon 1263). The amount needed by the diocese to balance its governance budget is determined by subtracting anticipated investment income from the total expenses budgeted for governance, capital payments, and additions to reserves for repair and replacement. The assessment rate is calculated by dividing the total amount needed by the Combined Parish Assessable Income. The Clergy Benefit Assessment is determined in like manner after the Clergy Benefit and Retirement Board has determined the budget.
119. The Bishop will determine the compensation for all diocesan priests in consultation with the Presbyteral Council. Transitional deacons serving in parishes shall be compensated \$100 less per month than the amount provided for priests. Seminarians working in parishes shall receive \$200.00 less per month than the amount provided for priests.

120. Active priests in the diocese will also receive a reimbursement of professional expenses not to exceed an amount determined annually by the Bishop in consultation with the Presbyteral Council.
121. The parish or institution of assignment will purchase the car insurance for the priest, and pay the annual premium directly to the insurance company. The policy remains in the name of the priest.
122. All eligible lay employees must be included in the Lay Pension Plan and the Lay Employees Saving Plan. Eligible employees are those that work more than 800 hours per a year, or at least one-half the load of a salaried employee. The *Administrative Manual* should be consulted for details.
123. The assessable income of each parish is determined by diocesan policy that must make allowances for education expenses and capital expenses. The parish may also petition the Bishop for an exception from assessment for any single donation that would exceed 20% of the ordinary receipts of the parish.
124. Unless the bishops of the province determine otherwise, the offering for a Mass shall be \$5, and the stipend for administering other sacraments shall be \$25 (Canon 1264). It is the custom in this diocese for the priest to give these amounts to the parish or institution of assignment. Portions in excess of these amounts may be considered a gift to the priest.
125. All parishes must comply with the Bishop's stewardship programs and the diocesan schedule for special collections. Any extraordinary fundraising efforts require the permission of the Bishop.

#### **Administration of Church Assets**

126. The Bishop is the administrator of all assets belonging to the Governance and Service Offices. The Chief Financial Officer assists him in these rights and duties.
127. The Bishop has the right and duty of carefully watching over the administration of all church property in the diocese, a responsibility he has partially delegated to the Chief Financial Officer.
128. Administrators act invalidly when they exceed the limits of ordinary administration without the written approval of the Bishop. Ordinary administration as defined by the Bishop includes whatever is necessary for the preservation of church property, and whatever actions are required to collect income, pay bills, make ordinary repairs, keep records, and transact customary business. Extraordinary administration includes such acts as do not occur at regular intervals and are by their nature of greater importance.
129. All acts of extraordinary administration can be divided into two types: alienation (pursuant to Canons 1291-1294), and major transactions (pursuant to Canon 1295).
130. The Bishop will not accept requests for a permission involving extraordinary administration unless the pastor or administrator has obtained the consent of the parish finance board and parish council.
131. The administration of all assets acquired by the Governance and Service Offices is the sole prerogative of the Bishop, the Diocesan Finance Board, the College of Consultors, and the Chief Financial Officer within norms established by canon law and the National Conference of Catholic Bishops. The Finance Board shall approve annually a forecast of the income and expenditures

foreseen for the governance and services of the diocese, and the audited financial statements at the end of each fiscal year.

132. Administrators of church assets are to observe faithfully the rules and regulations given in the *Administrative Manual* as updated and revised annually.
133. Administrators may neither initiate a lawsuit nor respond to the threat of legal action on behalf of a juridic person without the written permission of the Bishop.
134. The administration of all assets belonging to the Governance and Service Offices shall be in conformity with the accounting practices and reporting procedures approved by the National Conference of Catholic Bishops. No one person shall have control over a single management or accounting function. An annual audit by outside certified auditors is required. A report to the people of the diocese on the financial status and program achievements shall be prepared and published annually.
135. All surplus funds of parishes and institutions must be deposited with the Deposit and Loan Fund. Surplus funds are defined as those not needed beyond a period of six weeks. The interest rate earned by all deposits will be determined monthly and interest paid quarterly by calculating the percentage of these funds invested in parish loans, and the percentage of funds invested in securities earning a different interest rate.

#### **The Validity of Contracts**

136. Whatever is prescribed for the validity of contracts in the State of Tennessee is to be observed in church law with the same effects, with due regard to the following norms governing the alienation of church property and other major transactions.

#### **Alienation and Major Transactions**

137. Alienation is a technical term in canon law defined for purposes of these norms as any act whereby stable capital is either lost or destabilized (see Norm 110 above). This could occur in one of the following ways: (1) the loss of operating property by gift or prescription (not, however, by right of eminent domain); (2) the sale of operating property without stabilizing the proceeds; (3) the transfer of plant funds or quasi-endowment funds to current funds (free capital).
138. Permission of competent authority is necessary in order to alienate the stable capital of any juridic person. Without such permission the alienation is invalid in church law. The competence to grant such permission varies with the value of the capital to be alienated as specified in the following provisions.
  - If the value does not exceed \$300,000, the competent authority is the Bishop.
  - If the value is between \$300,000 and \$500,000, the lawful authority is the Bishop in consultation with the diocesan Finance Board.
  - If the value is between \$500,000 and \$3,000,000, the Bishop may grant permission with the consent of the Diocesan Finance Board and of the College of Consultors.
  - If the value is greater than \$3,000,000, and the Bishop has the consent of the Finance Board and the College of Consultors, final permission must be sought from the Apostolic See.
139. Pursuant to Canon 1295, the requirements given above for alienation are also to be observed in the following *major transactions*: the purchase of real property, the mortgaging or leasing of real property, the incurring of any indebtedness, the signing of any contract for the development of a

capital project, the approval of any capital improvement or repair exceeding a cost of \$30,000, initiation or settlement of any lawsuit, and announcement of public fund drives.

140. In accordance with diocesan insurance policy no contracts exceeding \$10,000 may be signed without prior review and approval by diocesan legal counsel or the diocesan risk manager.
141. When the pastor and leadership of a parish are considering a capital project, they must meet with the Bishop or his representatives to present the case of need and to receive detailed instructions on the process of development and approval of the project.
142. The Bishop will not authorize the development of construction documents without prior approval of a realistic capital budget, project calendar and the basic design. The capital budget must give sufficient evidence of the parish's ability to finance at least 25% of the total project (including financing costs during the construction phase) and to amortize the remaining indebtedness within a reasonable time with reasonable interest rate assumptions as determined by the Diocesan Finance Board.
143. Construction may not begin until the Bishop has approved the construction documents and the construction contract, and financing is available from the Deposit and Loan Fund.

## **VI. Sanctions in the Church**

### **Penal Process for Sexual Misconduct**

144. The norms in this section are intended primarily for use by officers of the Diocese of Nashville when accusations are received concerning any form of sexual misconduct by a cleric, an employee, a volunteer minister, or any other person acting on behalf of the diocese or one of its subsidiaries. Provisions governing processes for employment or appointment and for reporting acts of sexual misconduct are to be found in personnel policies of the diocese, of the Catholic Schools Office, and of diocesan subsidiaries. A brief statement of state law regarding the requirement to report sexual misconduct may be found below. Policies which supplement and implement these norms are maintained by the Moderator of the Curia.
145. The diocese supports and promotes compliance with all state and federal laws, but the church also claims the right to impose penal sanctions on its members in accordance with canon law in order to protect church community and to promote the spiritual welfare of its members. The *Code of Canon Law* provides a comprehensive and equitable procedure for determining the guilt or innocence of persons accused of ecclesiastical crimes, and for imposing an appropriate sanction. This procedure is used when the accused is a cleric or an ecclesiastical officeholder. This section provides diocesan norms to supplement canon law in the implementation of the penal process.
146. To avoid confusion, this document separates three different situations of sexual misconduct: (a) a cleric accused of sexual misconduct with a minor, (b) a layperson accused of sexual misconduct with a minor, and (c) an accusation that a cleric or lay employee or minister has abused a professional relationship. These terms require definitions:
  - *Sexual misconduct* is any sexual behavior that is inappropriate or unlawful. The term is used in this document to cover (a) *child sexual abuse* as defined in state law, (b) inappropriate or unlawful sexual contact between a cleric, administrator, minister, or employee of the diocese of Nashville or its subsidiaries and a person between the ages of 13 and 17, and the ecclesiastical crime proscribed by Canon 1395 §2. The Tennessee Code Annotated 37-1-

602(2)(A) identifies *child sexual abuse* as the commission of any act involving the unlawful abuse, molestation, fondling, or carnal knowledge of a child under the age of thirteen (13) that would constitute a criminal offense. Canon 1395 §2 proscribes sexual contact with a minor below the age of 16 (as derogated by Pope John Paul II with April 25, 1994 Rescript).

- *Cleric* refers to any man who has received the Sacrament of Holy Orders and who has received an official assignment in the diocese from the Bishop. All other persons are considered *laypersons*.
- *Minor* refers to anyone under the age of 18.
- *Minister* refers to a member of a religious institute or to any layperson appointed by the Bishop or by the pastor of a parish to serve the religious needs of others. Such persons may be catechists, pastoral assistants, youth ministers, family ministers, or have a similar appointment.
- *Employee* refers to anyone paid a wage or salary by the diocese, a parish, or another subsidiary of the diocese.
- *Abuse of a professional relationship* is herein defined as an act of sexual misconduct between a cleric, minister or church employee and an adult with whom the cleric, minister or church employee has a relationship based on legitimate expectations of spiritual, pastoral, religious, or ministerial assistance.
- *Sexual harassment* includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct of a sexual nature when submission to that conduct is made a condition, implicitly or explicitly, of obtaining or maintaining employment or office, or when it has the effect of substantially interfering with the exercise of duties associated with employment.

147. The three different situations distinguished in this document have in common the use of a Response Team. The Bishop appoints and maintains a Response Team consisting of a priest, a mental health professional, a physician, and an attorney, all of whom are knowledgeable about issues of sexual crimes and misconduct. The Bishop may consult with the members of this team individually or collectively as the circumstances warrant. The Bishop appoints a Coordinator of the team with specific rights and duties. The Bishop will request the recommendation of the Response Team, and may request the involvement of the team or some of its members in an extra-judicial process to determine guilt and the appropriate penalty or response to the offender.
148. The Bishop will ordinarily appoint an Investigator to conduct a preliminary investigation of the accusation. The Investigator may be a member of the Response Team.
149. TCA 37-1-605 provides that any person "who knows or has reasonable cause to suspect that a child has been sexually abused shall report such knowledge or suspicion to the department [of human services] responsible for the investigation of reports made pursuant to this section or to the judge having juvenile jurisdiction or to the office of the sheriff or the chief law enforcement official [the District Attorney] of the municipality where the child resides." TCA 37-1-602 specifies that this reporting requirement applies not only to child sexual abuse as defined in the statute, but also to the commission of the same acts involving a person between the ages of 13 through 17 if the act is committed by a parent, guardian, relative, person residing in the child's home, or other person responsible for the care and custody of the child.
150. All clergy, administrators, ministers and employees of the diocese and its subsidiaries are bound by the state reporting requirement noted above and are obliged to comply immediately in accordance with that requirement. They are also obliged to report all forms of sexual misconduct

directly to the Moderator of the Curia. If the Moderator cannot be reached, the report should be made to the diocesan attorney. The person informed shall notify the Bishop.

151. Allegations that a cleric, administrator, minister, or employee of the diocese or its subsidiaries engaged in sexual misconduct with a minor from anyone other than a clergyman, administrator, minister, or employee of the diocese or its subsidiaries may be reported to the Diocese of Nashville either by telephoning, writing, or by meeting in person with the Moderator of the Curia or by calling 1-800-770-0602. This telephone number is established and maintained by the diocese as an additional means to facilitate the receipt of information and through which counseling referrals can be obtained.
152. Based on the recommendation of the Investigator and the Response Team, the Bishop decides whether to initiate a judicial penal process or an extra-judicial penal process. Because of social and legal circumstances, there is just cause to avoid a judicial process, and therefore an extra-judicial process is ordinarily preferred. The process must be judicial, however, if the accused requests a trial, or if it is foreseen that the accused should be dismissed from the clerical state, unless this can otherwise be achieved through recourse to the Holy See. Before making his decision, the Bishop will consider the conditions provided in Canon 1341, and consult with two judges or experts in the law (Can. 1718 §3).
153. The accused must be advised of his right to the services of a procurator, and one will be provided by the diocese if the accused is unable to afford one and a penal process is initiated.
154. Even after a penal process is initiated, a settlement may be reached among interested parties that takes into consideration the question of damages. Pursuant to Canon 1344 §2, foreseeable consequences of a civil action should be considered before a settlement is reached on damages.
155. If the Bishop decrees that a judicial penal process is to begin, he should give the records of the investigation to the promoter of justice who will submit the case to the tribunal. Pursuant to the exception provided in Canon 1458, this case is to be given priority on the court's docket. The judicial vicar is to preside in a collegiate tribunal, and a practicing attorney should be appointed to serve as an assessor for the tribunal. A contentious process for damages may be joined to the penal process by an injured party (Canon 1729). The trial is conducted in accordance with canonical procedure.
156. If the Bishop decides to proceed in an extra-judicial process, he must provide the accused with an opportunity for self-defense, and appoint two assessors to consider with him the proofs and arguments. His final decree should be issued in accordance with Canons 1342-1350, giving his reasons in law and in fact.
157. If an accused cleric is a member of a religious order or institute, the Bishop initiates ongoing contact with the cleric's major superior explaining the substance of the accusation and the procedure provided in this document. If the accused cleric is incardinated in another diocese, the proper bishop shall be notified in the same manner. If the cleric is resident or present in the diocese without an ecclesiastical appointment, the matter is referred to his proper ordinary, and the Diocese of Nashville will not initiate an investigation or other process without authorization from the proper ordinary.
158. If the Bishop accepts the recommendation of the Response Team that the process should be continued, he will take the following non-punitive measures with respect to the accused: administrative leave from all assignments and ministries; withdrawal of all clergy faculties; and relocation to a suitable supportive environment.

159. The Bishop will provide necessary care for a cleric found guilty, even if he has been dismissed from the clerical state. Such care is provided out of pastoral and fraternal concern rather than from a legal obligation.
160. When an accusation of sexual misconduct with a minor is received against a layperson who is a minister or employee as defined in this policy, the Bishop may appoint, as circumstances warrant, the Moderator of the Curia, the Director of Catholic Charities, or the Superintendent of Schools to exercise some of his rights and duties. The Investigator, in conjunction with the Response Team, will make a preliminary assessment within forty-eight hours of the accusation whether it will be considered unfounded or well founded. If the accusation is considered unfounded, the Response Team will conclude their work as quickly as possible, making recommendations for pastoral care as judged appropriate.
161. Acts of misconduct constitute ecclesiastical crimes if one of the following circumstances exists: force, threats, public display, open cohabitation, or solicitation on the occasion or under the pretext of confession. Accusations involving the last circumstance require that special instructions from the Holy See take precedence over these norms. Otherwise, these circumstances warrant compliance with those canons and diocesan norms that govern the church's formal penal process.

## VII. Processes

### Mediation

162. These norms implement the provisions of Canons 1713-1716. Persons in conflict are urged by Canon 1713 to seek reconciliation. The Judicial Vicar by a Decree of Reference may refer a conflict to a trained mediator if parties applying to the Tribunal for mediation are involved in a conflict arising within the Diocesan Church. The following definitions apply:
- A *conflict* may arise over an assertion of both legal rights and personal interests, although conflicts mentioned in Canon 1715 may not be referenced to mediation.
  - *Mediation* is the process by which the participants, together with the assistance of a neutral party, systematically isolate disputed issues in order to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs.
  - A *trained mediator* is a person who meets the qualifications established by the Commission on Alternative Dispute Resolution of the Tennessee State Supreme Court pursuant to Rule 31 of the Tennessee Rules of Appellate Procedure. Diocesan mediators, however, do not have to receive approval from this state commission.
  - A *conflict arising within the Diocesan Church* must involve at least one of the following elements: the interpretation or application of a provision of universal or diocesan church law or diocesan policy; the decision of an administrator of a diocesan juridic person; the administration of ecclesiastical goods; or contracts as recognized by Canon 1290.
163. Pursuant to Canon 1714, the parties in mediation are to choose the norms to be observed in the procedure. The mediator may propose norms to the parties. Norms used in all mediation procedures must include a provision which binds the mediator and the parties to strict confidentiality. The mediator may never reveal any element of the procedure or its outcome. The parties must sign an agreement before the beginning of the mediation to bind themselves to strict confidentiality, although they may agree in a written settlement of the dispute to publicize specific elements of their settlement.



164. Within thirty days of the end of the mediation, unless the Decree of Reference makes alternative provisions, the mediator must submit to the Judicial Vicar a final report which indicates whether both parties appeared and participated in the mediation, and whether the case was completely or partially settled.
165. The interpretation and application of these provisions shall always be without prejudice to the universal law of the Church and the legitimate authority of the Diocesan Bishop.
166. The Judicial Vicar shall publish these norms so that their provisions may promote the service of justice in the life of the diocese.
167. Questions concerning the interpretation of these norms shall be referred to the Judicial Vicar.

### **Clergy Personnel Procedures**

168. The Presbyteral Council may nominate a group of priests to assist the Bishop in canonical procedures involving clergy pursuant to Canon 1742 and to advise the Bishop on other clergy personnel matters at his discretion. If the Council fails to do this, the Bishop may freely choose any pastors from among the members of the Council.
169. The Bishop will appoint a priest to serve as notary in any procedure that may have effects in canon law.
170. The Bishop freely appoints all pastors with due regard for the canonical procedures for transfer and removal. The Bishop freely appoints priests and deacons to all other canonical and ministerial positions.
171. The Bishop may conduct an annual survey of the clergy to ascertain the needs of the clergy and parishes, and the preliminary retirement plans of all priests who have attained their fifty-ninth birthday. This information will be used in considering potential appointments.
172. A priest may request a sabbatical leave. A sabbatical is understood to be an extended period of time away from an assignment, lasting from three to six months, or a longer period not exceeding twelve months if required for a special reason. This time should be spent in a formal program concentrating primarily on theological, pastoral or ministerial areas of concern. A sabbatical is distinguished from vacations, sick leave, special studies and a leave of absence from ministry. Application should be made to the Director of Continuing Clergy Education who will provide the forms and explain the procedure and criteria.
173. The Chancellor will maintain clergy files in accordance with policies and principles that promote the confidentiality of files, the clergy's right to privacy, the protection of the common good and the rights of others, and the necessity of retaining vital information.
174. The following items are placed in confidential files to which only the Bishop, the Moderator of the Curia and the Chancellor have access:
  - signed letters of complaint affecting ministry and the life of the church;
  - signed letters and correspondence of a sensitive or confidential nature;
  - summary notes of meetings between diocesan officials and clergy;
  - statements of professionals in sealed envelopes giving a summary diagnosis or prognosis concerning a member of the clergy;

- copies of letters to professionals or treatment centers indicating that confidential material has been returned to the professional or treatment center;
  - aftercare agreements between clergy and treatment centers; and
  - information affecting ministry and the life of the church which an individual furnishes only upon the condition that such information be kept completely confidential, even from the clergy, which is placed in a sealed envelope indicating who has access to the sealed information and the name/address of the confidant so that release may be requested if necessary.
175. Retention of items in the confidential files shall be reviewed by those who have access at least every five years in consultation with the diocesan attorney. Items should not ordinarily be retained for more than ten years.
176. The following procedure is used if a priest or deacon wishes to see his file: the request must be made in writing to the Bishop; the file is reviewed by those who have access to determine if there is any matter protected by an agreement of confidentiality; and, by appointment, the file is read in the presence of the Chancellor.
177. Complaints, evaluations, or judgments concerning any priest or deacon cannot be used procedurally unless they are from identified sources and in writing. Anonymous information is not accepted or considered. The priest or deacon must be given access to any information that is used against him in any procedure that may affect his canonical standing or reputation.